



## Inside This Issue

### Letter from the Chairman

Commission Chairman Brian Jackson writes about the current housing market as well as the Annual ARELLO Conference in San Antonio

### From the Director's Desk

An update on the commission and its activities from the director, Dee Jones Noordermeer.

### New Auditor/Investigator

The Commission office welcomes Angela Madsen

### Identity Theft Ring Targets Real Property

### New Licensees

### Disciplinary Action

### Appraiser's Update



## License Renewal Deadline is Approaching

The renewal deadline is November 30 for those licensees who need to renew in 2006. To ensure your license renewal application gets processed in a timely manner, here are some helpful hints:

**Fill out the application form completely.** All questions on this form must be answered or your application will be returned. Please note that answering "N/A" (not applicable) to a YES/NO question is not acceptable and will result in your application being returned to you. Also, don't forget to sign the application form.

**Application must be received by November 30.** This is NOT a postmark deadline. Renewals must be in the commission office on or before the 30<sup>th</sup> or a late fee will be assessed.

**Renewal fee must accompany the application.** Every year, the Commission office returns renewal forms because the licensee forgets to include a check for the renewal fee.

**Errors & Omissions Insurance.** The Commission-offered E&O Insurance plan for 2007 is administered through Rice Insurance Co. Enrollment forms for this coverage are also due by November 30. Licensees who have policies with other providers are responsible for providing the Commission office with proof of coverage. Licenses cannot be renewed on active status without proof of insurance.

**Extra fees for additional/branch office licenses.** Licensees that have additional licenses for branch or alternate offices must include an extra \$30 for each extra license. Failure to do so will result in the application being returned.

**Inactive licensees.** Don't forget – licenses on inactive status must also be renewed. Renewing the license is what keeps it from expiring altogether.

**Continuing education must be completed.** Licenses cannot be issued on active status unless all continuing education requirements are met and the records are on file with the Commission office. As a reminder, course providers have 10 days after a given course to submit the attendance information. Although technically speaking, courses may be taken until December 31 to count toward renewal, **taking classes at the last minute is highly discouraged!** **The commission office needs some time to process license renewals and if the education is not complete until mid-late December, we cannot guarantee licenses will be sent back out by January 1<sup>st</sup>.** The best way to avoid the risk of having an inactive license on January 1 is to complete the continuing education requirements now!

Questions regarding renewals can be directed to the Commission office at (605) 773-3600.



## A Letter From the Chairman

As a non-industry member (i.e. non-Realtor), I have a daunting task of trying to write a column for the newsletter and relate it to a group of professionals who are educated and licensed in their field. Needless to say, my position on the commission is to have a public voice regarding your profession, so you most likely will not read a column of mine where I talk about agency, license law, etc. Mostly, I'll just have to try and entertain you with some type of story; maybe discuss some recent news or events. Let's start with recent news or events...

Over the past week there has been a lot of coverage and discussion about the housing market tanking and how home values are going to drop significantly. I just want to say thank goodness we don't live in such an unpredictable market area. We all know the story about the tortoise and the hare and that slow and steady wins the race. In this case, it is the steady appreciation of real estate in South Dakota that is allowing us to "win" in the long run. Like any financial advisor will tell you when investing in the stock market, there will be ups and downs, but over the long term your investment should realize gains. Sure, like anyone else, I wouldn't turn down a sharp increase in value, but I'll take appreciation over depreciation any day.

Another recent topic is that government officials say that homeowners are spending at least 30% of their monthly gross income on housing expenses (PITI and utilities), and that this amount is too excessive. I don't know whether to agree with that or not. I think the best we can do is try and educate buyers (consumers) of the costs of home ownership. Thirty percent may not be too bad for housing, but what percentage of income is going to other payments?

The 2006 Association of Real Estate License Law Officials (ARELLO) National Conference was held this past September in San Antonio, TX. While I was unable to go to this year's conference, I know the commissioners and staff who did were able to attend numerous

educational and round table discussions regarding the most recent trends and "issues" facing the real estate world. I am sure that Dee will comment about the conference more in future publications.

Lastly, I hope those of you that could attend the recent Caravan enjoyed the speaker. Be sure to inform the commission of what you liked or didn't like, or if you have any ideas of items you think we should be educating licensees about.

Sincerely,  
Brian



## From the Director's Desk

By now, the licensees who need to renew this year, should have received their renewal notices. In addition, all active licensees who carry errors and omissions insurance from Rice Insurance Services Company should have received those notices, as well.

For those licensees renewing in 2006, the renewal and fee must be received by the Commission no later than November 30, 2006. Renewals received after that date will be returned for a late fee. To expedite the renewals of those licensees who wish to be on active status January 1<sup>st</sup>, proof of renewal of errors and omissions insurance must accompany the license renewal form. In addition, I strongly advise those licensees to have their continuing education completed by November 30<sup>th</sup>, as well. By submitting a complete renewal packet and satisfying the continuing education requirement by the renewal deadline, the licensee is assured of receiving the 2007-08 license by January 1, 2007. Brokers — please check with your associates who are renewing to make sure everything is in place for their renewals to meet the November 30<sup>th</sup> deadline.

The Commission has hired Angela Madsen as its auditor/investigator based out of Sioux Falls. She is already busy conducting audits and reviewing complaints. Get to know her better by reading her bio appearing in this issue.

The Commission is very concerned about the way real estate teams and associates are advertising. In some cases, it appears that there are two real estate firms involved. An example of this is when a team forms and uses a name like, "Doe Real Estate". Oftentimes, this name is larger and easier to read than that of the firm. The Commission is requesting feedback from the owner/brokers. The Commission is asking input from responsible brokers who are concerned about this issue. A survey has been distributed to the local boards for those brokers who are members of the SD Association of REALTORS®. If you are not a member, you can obtain the survey by contacting me and I will gladly send it to you.

Many jurisdictions require criminal background checks on applicants. The Commission has been discussing the need to do this, as well. If the Commission decides to move forward, the requirement would probably be drafted as an administrative rule, not statute.

Effective October 2<sup>nd</sup>, broker associate candidates have been taking the new 2-part exam. The testing company has had some "bugs" to work out and hopefully those are now corrected. I personally want to thank the prelicensing instructors who have taken this bull by the horns and implemented some ingenious ways to prepare their students for the simulation portion of the exam.

And speaking of thanks, I wish you all a wonderful Thanksgiving surrounded by family and friends.

*DjN*



## In Memoriam

The SD Real Estate Commission extends its sincerest sympathy to the families and friends of the following licensee who recently passed away:

Shirley Sneesby, Deadwood  
Paul Gylling, Sioux Falls  
Jerry Kjerstad, Piedmont  
Craig Korkow, Sioux Falls

## Auditor/Investigator Hired

Angela Madsen has begun her position as the Auditor/Investigator for the eastern South Dakota area.

Angela was born and raised in Mitchell and has degrees in accounting and business. She has previously worked as a corporate accountant, a statutory/regulatory accountant for the health insurance industry and most recently as a financial consultant and analyst in the banking industry.

She resides in Sioux Falls with her husband, Jeremy and enjoys camping, attending Minnesota Twins' games and watching her husband play softball. We welcome Angela to the Commission staff!

*(The following alert is printed with permission from Information Data Services, Inc. IDS is one of the largest investigative agencies in the United States that specialize in providing professional investigative and related services to the title insurance industry on a nationwide basis.)*

## Identity Theft Ring Targets Real Property

For the last few months an identity theft ring has been wreaking havoc on property owners, mortgage lenders and the title insurance industry. This is an international scheme in that many of the suspects appear to be of Eastern European origin and much of the stolen money is being wired to accounts in Greece, the Slovak Republic, Russia, Latvia and elsewhere.

The scheme involves absentee-owned property and includes both vacant land and improved residential and commercial properties. In most of the cases reported, the true owners reside outside of the State of Florida. Additionally, in some of the cases, the properties are listed for sale through the local Multiple Listing Service.

### The Refinance Scheme

The perpetrators of this scheme assume the identity of the real property owner and obtain a physical mailing address (always a "mail drop location") in the community near the residence of the

real property owner. They then contact a mortgage broker or lender as well as a title agent to originate and close the new loan using the identity of the real owner. In most cases the properties are owned free and clear of any liens or mortgages of record.

After receiving loan approval from a mortgage lender, the perpetrator then contacts the title agent and request they either transmit the closing documents to a "free email address" or the mail drop address. After the executed closing documents have been returned to the title agent, the perpetrator provides written instructions for the agent to wire the loan proceeds to bank accounts held outside the United States, mostly in Eastern European countries. Investigation reveals these accounts are opened with fraudulent identification and that the entire amount of the loan proceeds are quickly withdrawn in cash.

At or about the same time the perpetrators are trying to refinance the victim's property through one lender and title agent, they are attempting to borrow a similar amount from a different lender using the same property as collateral. A different title agent is used for this second loan. It is important to note that both refinance closings occur at or about the same time (in the gap) so neither settlement agent is aware of the other closing until after the funds have been disbursed and the money has left the country.

### Similar Characteristics

- \* All contact with the perpetrators is by telephone or e-mail. There is no personal contact. They will refuse to attend a closing or come by the office to pick up a check.

- \* They are requiring the settlement agent to execute a letter agreeing that they will wire the proceeds from the closing to bank accounts held outside the United States.

- \* All contact addresses provided are "mail drop box" locations.

- \* All telephone numbers provided are pre-paid cell phones and are untraceable.

- \* All identification provided are fraudulent driver's licenses and do not bear the likeness or resemblance to the identity theft victim.

- \* The proceeds from each of the closings exceed \$300,000.

### Claims Prevention

- 1) Do not email or mail closing packages to addresses that cannot be verified. In these cases please use a courtesy closer in the area near the borrower. This will ensure personal contact with the seller or buyer.

- 2) If the amount of the wire is in excess of \$100,000: Do not wire the proceeds to any bank outside the United States without prior written approval of your title insurance underwriter.

Please call Information Data Services immediately if you are contacted with this type of scheme: Douglas F. Pollock, CFE, (407) 321-2874 or Frank Gramlich, CFE, (954) 495-0694.

## South Dakota Real Estate VIEW

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221 West Capitol Ave., Suite 101  
Pierre, South Dakota 57501

Telephone: 605-773-3600  
Facsimile: 605-773-4356  
Website: [www.state.sd.us/sdrec](http://www.state.sd.us/sdrec)  
E-mail: [dr.rr.ealestate@state.sd.us](mailto:dr.rr.ealestate@state.sd.us)

Editor-in-Chief: Dee Jones  
Noordermeer  
Editor: Karen Callahan

### THE COMMISSION AND STAFF

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Education Director ..... Pierre  
Norma Schilling, Licensing ..... Pierre  
Michelle Metzinger, Auditor..... Pierre  
Angela Madsen, Auditor ..... Sioux Falls

Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because they may be of interest to the readers.

## HUD Charges RE/MAX Agent in Milwaukee with Violating The Fair Housing Act

The U.S. Department of Housing and Urban Development announced that it has charged RE/MAX Realty 100, RE/MAX real estate broker Phyllis Hasenstab, and homeowner Edith Halvorsen with violating the Fair Housing Act by allegedly refusing to permit an African-American woman to view a home that was for sale.

The charge alleges that the actions of the respondents made Halvorsen's four-bedroom single family home in the Bluemound area unavailable to Tami Doss, who is a principal in the Milwaukee Public School System. Doss was interested in the home because she is required to live within the Milwaukee city limits in order to maintain her position.

HUD's investigation found that, in July 2005, Doss contacted Margaret Silkey, a real estate broker with First Weber Group Realtors, to help her locate a home in the City of Milwaukee. Silkey told Doss about Halvorsen's home because it fit all her requirements and was in her price range. Silkey informed Halvorsen that she had a potential buyer. Halvorsen asked if the buyer was African American, and Silkey informed her that it was against the "discrimination laws" to provide that type of information. Halvorsen then allegedly said that when "blacks" moved into her sister's neighborhood, property values fell. She stated that she "could not do that to her neighbors." Both Doss and Silkey filed complaints with HUD. Silkey alleged that she suffered financial damages because of the lost opportunity to make the sale, as well as damage to her professional reputation.

Halvorsen eventually hired RE/MAX real estate broker Phyllis Hasenstab. Although Silkey wanted to show Doss the house, Hasenstab excluded Silkey from showing the property to any potential buyers. HUD's investigation showed that Hasenstab allegedly took this action because Silkey had called the Multiple Listing Service (MLS) and talked to them about Halvorsen's discriminatory comments. The house was eventually sold to a white person, and Doss is still renting.

Under the Fair Housing Act's provision on choice of forum, RE/MAX has elected to have the case heard in federal district court.

FHEO and its partners in the Fair Housing Assistance Program investigate approximately 9,000 housing discrimination complaints annually. People who believe they are the victims of housing discrimination should contact HUD at 1-800-669-9777.

*The following article is printed with permission from the Salt Lake Tribune.*

### Buyers Say Meth Haunts House

By Pamela Manson, The Salt Lake Tribune

Newlyweds Cynthia and Paul Halliday were excited when they bought their Orem home - their first big purchase together. But now, they're frightened and stressed.

Alerted by neighbors that the prior tenant had lots of parties and heavy traffic at odd hours of the night, the Hallidays tested the property for methamphetamine contamination.

The tests allegedly showed 70 times the maximum allowed level of the chemicals used to make the street drug.

"It's a nightmare," Paul Halliday said. "It's just unbelievable."

They were forced to leave on the night in July that they learned about the test result and have been told by Utah County health officials they can no longer live there.

And - in a lawsuit filed last month against Osmond Real Estate Inc. and others - the Hallidays allege they lost almost everything because of the contamination: furniture, clothes, electronics, a piano, other musical instruments, photographs, heirlooms, tools, sports equipment and more.

Named as defendants are Osmond Real Estate, Osmond agent Fay Jones and the previous owners, George P. Cunningham and Jane Cunningham, whose son had lived in the house before the Hallidays moved in.

The Cunninghams could not be reached for comment.

Mark J. Williams, a lawyer for Osmond Real Estate and Jones, said, "Obviously, we're going to review this and investigate and defend [against] the allegations."

In addition, the Hallidays believe their exposure to the chemicals for five months has caused them to experience frequent headaches, diarrhea, shortness of breath, skin rashes and chronic coughing and has put them at risk of cancer, liver damage and damage to the reproduction system.

Their first child, due in April, could be at risk for birth defects, they say.

"That is something we are very concerned about," Cynthia said.

In their lawsuit, the Hallidays are accusing the previous owners and Osmond Real Estate of concealing that the structure was uninhabitable because of the alleged contamination.

The legal action also contends that the defendants failed to inform them of boundary problems, which allegedly put the property line inches from the home, meaning the backyard and sprinkler system were not part of the purchase.

The lawsuit is asking for rescission of their purchase contract; at least \$200,000 to cover the costs incurred for decontamination and living expenses; and monetary punitive damages.

Williams said real estate agents have no duty to do an inspection of a house, but are required to disclose material facts about the property. "I'd assume this agent had no knowledge that this was a meth house, as alleged," he said.

The Orem-based company was founded in 1979 by George Osmond, father of the famous singing Osmond family. Son James Osmond now operates the enterprise.

According to the lawsuit, filed in 4th District Court by Provo attorney Trent Sutton, the Hallidays bought the house at 628 E. 1600 South for \$129,400 and took possession in February.

The 1,150-square-foot home has two bedrooms and one bath and a 900-square-foot, partially finished basement.

By April, the Hallidays said they learned of problems involving the division and sale of part of the property before they bought their home. Because of where boundary lines fall, Orem officials have instructed them to never use the south entrance of their home, the Hallidays say.

After testing by a state-certified decontamination specialist, the Hallidays learned about the alleged meth contamination.

Decontamination, which includes spraying neutralizing chemicals throughout the house, will cost \$5,000 to \$15,000, the lawsuit says. After that, the house would have to undergo extensive remodeling.

They still are paying their mortgage while also paying for student housing at Brigham Young University, where Paul is a student, according to the Hallidays.

More devastating than the financial loss, though, is the emotional one, Cynthia said.

"The really sad thing is losing the things that are special for you," she said. "Paul and I got an afghan from his mother before she passed away. It really hurts when you think about the sentimental things."

Boyd Stringham, of the Utah County Department of Health, said his office receives one to two calls a day about suspected meth use or manufacturing in homes. Many homeowners became concerned when buying a house and hearing of suspicious activity from neighbors, he said.

"The public is much more aware of the problem out there and [is] calling us," Stringham said.

Kyle Adams, a decontamination specialist and owner of the Bluffdale-based Low Cost Cleanup and Restoration, said he has done about 50 decontaminations in Utah so far in 2006. Most of his jobs used to be in Salt Lake County, but now much of his work is in rural parts of the state, where smaller police forces have fewer resources.

"We're seeing a trend where [methamphetamine manufacturers] are moving out into these smaller areas and being more devious in how they cook," Adams said.

Some drug dealers do the preliminary separating of chemicals in one place, then cook the meth at another location, he said. After that, they dismantle the lab to cover their tracks.

Adams says many residents could be unaware that their homes have been contaminated by previous tenants.

"No one realizes they're living in that kind of environment," he said.

## Disciplinary Action

The following disciplinary actions have become effective since the last report in the newsletter, excluding cases currently on appeal. A Stipulation and Assurance of Voluntary Compliance is a settlement agreement between licensees and the Real Estate Commission and constitutes neither an admission nor a denial of any violation.

**Les Pietruszkiewicz, Sioux Falls, Broker Associate.** Stipulation and Assurance of Voluntary Compliance. Completion of 6 hours of education in agency and 4 hours in ethics and a penalty of \$250. All education hours are above the required 24 hours and are to be completed in a classroom setting. Alleged violation of SDCL 36-21A-71 (30), (33), (32); SDCL 36-21A-130; SDCL 36-21A-132.

**Richard L. Price, Jr., Sioux Falls, Broker.** Stipulation and Assurance of Voluntary Compliance. Completion of 6 hours of education in agency and 4 hours in ethics and a penalty of \$250. All education hours are above the required 24 hours and are to be completed in a classroom setting. Alleged violation of SDCL 36-21A-71 (30), (33), (32); SDCL 36-21A-130; SDCL 36-21A-132.

## New Licensees

The South Dakota Real Estate Commission would like to welcome the following new licensees.

### Time Share Agent

Savoie, Sammie - Lead

### Broker

Boomsma, Glenn J – Brandon  
Curry, Arlene T – Elk Point  
Estes, Doyle – Hill City  
French, Donald L – S Sioux City, NE  
Hedrick, Renee E – Colorado Springs, CO  
Hollan, Robert J – Sioux Falls  
Isaacson, Richard K – Coggon, IA  
Kaiser, Donald E – Spading, NE  
Kolnberger, Michael – Shakopee, MN  
Niesen, Kirk N – Las Vegas, NV  
Peterson, Dawn G – Dawson, MN  
Sullivan, Jana L – Sioux City, IA  
Swanson, Charles L – Falcon Heights, MN

### Broker Associate

Ambur, Tracie R – Sioux Falls  
Anderson, Brian W – Sioux Falls  
Bahr, Dawn L – Mesa, AZ  
Baldrige, Kimberly – Sioux Falls  
Bauer, Stacy – Mobridge  
Blanco, Milo J – Rapid City  
Blom, Heidi L – Sioux Falls  
Burma, Preston J – Platte  
Caldwell, Rex J – Spearfish  
Conrad, Adam – Rapid City  
Dather-Schelling, Rhonda – Brandon  
Froehling, Jason – Sioux Falls  
Greve, Christine – Sioux Falls  
Higlin, Jacqueline R – Rapid City  
Hogue, Joshua – Platte  
Horlyk, Michael H – Worthing  
Johnson, Stacy R – Sioux Falls  
Kalt, Peggy A – Aberdeen  
Ketterling, Paul A – Sioux Falls  
Krebsbach, Gregg – Rapid City  
Lawhun, Scott B – Rapid City  
Morrow, Danielle L – Sioux Falls  
Muenster, Theodore "Ted" – Sioux Falls  
Nordbye, Leland "Lon" O – Rapid City  
Nygaard, Brenda – Dell Rapids  
Odle, Polly – Saint Onge  
Petersen, Jr., Scott C – Sioux Falls  
Randolph, Steven D – Rapid City  
Salter, Patricia M – Huron  
Schmidt, Duane A – Huron  
Shereck, Courtney – Sioux Falls  
Underberg, Kimberly K – Sioux Falls  
Wattenhofer, Corey – Rapid City  
Werner, Paul C – Baltic  
Willmschen, Stan – Pringle

### Property Manager

Korzan, Karen M – Hartford  
Lorang, Kelly J – Sioux Falls  
Nagel, Matt S – Fairview

### Reg. Home Inspector

Dyer, Daniel – Dell Rapids  
Monteith, Tresa R – Brookings

### Salesperson

Calvillo, Keri M – Sioux City, IA  
Grube, Thomas L – Hartington, NE  
Hansel, Lisa L – Sioux City, IA  
Hepper, Stanley D – Mandan, ND  
Likness, Drew A – Fargo, ND  
Peterson, Rickey L – Luverne, MN  
Powell, Jason D – Bellevue, NE  
Usher, Dennis L – Sioux City, IA  
Young, Molly A – Sioux City, IA



# APPRAISER UPDATE

This section of the South Dakota Real Estate Review is the responsibility of the South Dakota Department of Revenue and Regulation Appraiser Certification Program. Articles are printed here to communicate pertinent information to those appraisers who receive this newsletter and are licensed under the Certification Program. Appraiser certification inquiries can be directed to Sherry Bren, Program Administrator, 445 East Capitol, Pierre, SD 57501, 605-773-4608

## Appraiser Certification Program Mission – Purpose – Intent

The Appraiser Certification Program was implemented July 1, 1990, pursuant to enactment of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) by Congress. The mission of the Program is to certify, license and register appraisers to perform real estate appraisals in the state of South Dakota pursuant to Title XI (FIRREA). The purpose of the Program is to examine candidates, issue certificates, investigate and administer disciplinary actions to persons in violation of the rules, statutes and uniform standards, and approve qualifying and continuing education courses. Title XI intends that States supervise all of the activities and practices of persons who are certified or licensed to perform real estate appraisals through effective regulation, supervision and discipline to assure their professional competence.

## Appraiser Certification Program Advisory Council

Council members provide recommendations to the Secretary of the Department of Revenue and Regulation in the areas of program administration in order to sustain a program that is consistent with Title XI. The Council meets quarterly in public forum. See the Website for meeting information. [www.state.sd.us/appraisers](http://www.state.sd.us/appraisers)

## USPAP Q & A

Vol. 8, No. 7, July 2006

### Applicability of SCOPE OF WORK RULE

Question: In my role as an appraiser, I perform many assignments that are not appraisal, appraisal review, or appraisal consulting services. Does the SCOPE OF WORK RULE apply to these assignments?

#### Judging an “Appraiser’s Peers Actions”

Question: In the SCOPE OF WORK RULE, one of the two tests regarding the acceptability of an appraiser’s scope of work is what the appraiser’s peers would do. There are many appraisers that do things differently, so how would I know what they would do in an assignment?

Vol. 8, No. 8, August 2006

#### Identification of Intended Users

Questions:

I know that it is my responsibility to identify the intended users when I perform an assignment.

USPAP defines “intended user” as *the client and any other party as identified, by name or type, as users of the appraisal, appraisal review, or appraisal consulting report by the appraiser on the basis of communication with the client.*

However, I need clarification regarding whether certain parties should automatically be considered intended users in certain circumstances described below.

A. If I perform an appraisal for estate tax purposes and the client will provide my report to the IRS with her tax return, must the IRS be identified as an intended user in this situation?

B. I have been hired by an attorney representing a husband in a divorce to appraise certain assets held in the marital estate and to appear as an expert witness. I know my report will go to the court as well as to the parties on the other side of the litigation. Must the court and/or the parties on the other side of the litigation be identified as intended users?

C. I frequently perform appraisals for purposes of purchase price allocation. The corporation that is my client will use

the values for financial reporting purposes. My reports are provided to the auditors of the corporations for their review as part of the audit process. In such cases, must the auditors be identified as intended users?

D. I am appraising a property for a regulated lender. I know that my appraisal will be reviewed by the bank’s outside auditors and the OCC reviewers. Must the auditors and OCC reviewers be identified as intended users?

Vol. 8, No. 9, September 2006

#### Trainee Access to Workfiles

Question: I am a trainee appraiser and have been working with the same supervising appraiser for some time. Recently, my supervising appraiser told me that since I was only a trainee, I had no right to access workfiles on appraisals where I provided significant professional assistance. Is my supervising appraiser correct? Do trainees have no rights regarding access to workfiles?

#### Updating a Prior Assignment with a Different Scope of Work

Question: Several months ago I appraised a property using only a sales comparison approach. My client is now asking that I perform an update of my prior appraisal, but they now want me to include a cost approach. Does USPAP allow me to do this?

Answers to the above questions can be found at:

[www.appraisalfoundation.org](http://www.appraisalfoundation.org)



## New Licensees – August/September

Charles L. Tveit, State-Registered –  
Aberdeen, SD

Brian W. Field, State-Registered –  
Burnesville, MN

Jim M. Roberts, State-Licensed –  
Pierre, SD

Eric P. VanPelt, State-Certified  
General – Las Cruces, NM

## Appraisal Regulations and the Interagency Statement on Independent Appraisal Evaluation Functions

The Office of the Comptroller of the Currency, The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the National Credit Union Administration (the agencies) prepared this document in response to questions from federally regulated institutions (regulated institutions) on existing standards for selecting appraisers, ordering appraisals, accepting transferred appraisals, and other related topics. It should be reviewed in conjunction with the agencies' appraisal regulations, the "Interagency Appraisal and Evaluation Guidelines" (interagency guidelines), dated October 7, 1994, and the joint statement "Independent Appraisal and Evaluation Functions" (independence statement), dated October 28, 2003.

[Continued from the  
August/September 2006 issue of *The Real Estate View*]

March 22, 2005

### Evaluation and Other Appraisal Topics

26. The work-out plan on a \$5 million problem loan calls for a regulated institution to receive an assignment of a \$2 million note from the borrower's relative secured by a deed of trust on a different property. Is this financial transaction considered real-estate-related and is an appraisal required on the collateral property?

Answer: Yes, this is considered a real-estate-related financial transaction. The agencies' appraisal regulations and interagency guidelines allow for an evaluation in lieu of an appraisal on new real estate collateral in certain loan workout situations depending on loan quality, collateral quality, and validity of an existing appraisal or evaluation. (See "Renewals, Refinancings and Other Subsequent Transactions" in the interagency guidelines.)

27. What is the useful life of an appraisal?

Answer: The useful life of an appraisal varies with market conditions and property type. The agencies allow a regulated institution to use an existing appraisal to support a subsequent transaction if the institution documents that the existing value estimate remains valid. Factors which could impact the value include the passage of time; the volatility of the local market; the availability of financing; the inventory of competing properties; improvements to, or lack of maintenance of, the subject property or competing surrounding properties; changes in zoning; or environmental contamination. (See "Valid Appraisals and Evaluations" in the interagency guidelines.)

28. Can a regulated institution advance new funds without a new appraisal if the value of the total loan continues to be supported by an existing appraisal and is consistent with the supervisory LTV limits? Does the age of the appraisal matter if the physical condition of the property and the market conditions have not changed?

Answer: A regulated institution may use an existing appraisal or evaluation to support a subsequent transaction, as long as the credit file documents the facts and analysis that support the institution's conclusion that the appraisal or evaluation remains valid. Criteria for determining whether an existing appraisal or evaluation remains valid will vary depending upon the condition of the property and the marketplace and the nature of any subsequent transaction.

[FDIC FIL-20-2005: Frequently Asked Questions. See <http://www.fdic.gov/news/news/financial/2005/fil2005a.html>]

## Maintaining an Education Record File

Please be advised that the Department of Revenue and Regulation, Appraiser Certification Program **strongly** recommends that each appraiser registered, licensed or certified by the Department maintain an "education records" file for appraisal course attendance verification. It is much easier to maintain the "education records" file than to have to contact education providers for the documents.

### NOTICE Retain a Copy of All Important Records

This is a notice to all licensees that the Department will systematically eliminate past continuing education records from licensee files in order to reduce file storage space. Appraisers are responsible for maintaining all records important to appraiser licensure, so make copies for your files of all records submitted to the Department.

## Information Regarding Disciplinary Actions

Public information regarding disciplinary action taken against an appraiser is available upon written request to the Department of Revenue and Regulation, Appraiser Certification Program, 445 East Capitol Avenue, Pierre, SD 57501 or e-mail – [Sherry.Bren@state.sd.us](mailto:Sherry.Bren@state.sd.us). Include in the request for information the name of the appraiser and the appraiser's city and state of residence. (Disciplinary action may include denial, suspension, censure, reprimand, or revocation of a certificate by the department. (ARSD 20:14:11:03))



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